

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 20459 (Application 29405)
Ledbetter Farms, Inc.

**ORDER APPROVING EXTENSION OF TIME
AND AMENDING THE PERMIT**

SOURCE: Unnamed Stream tributary to Russian River thence Pacific Ocean and
Russian River Underflow tributary to Pacific Ocean

COUNTY: Sonoma

WHEREAS:

1. Permit 20459 was issued to Sonoma-Lodi Joint Venture on July 25, 1990 pursuant to Application 29405 and subsequently assigned to Ledbetter Farms, Inc. on January 25, 1999.
2. Permit 20459 required the permittee to make complete application of the water to the authorized use by December 31, 1994.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on June 6, 2001.
4. The permittee has proceeded with diligence and good cause has been shown for an extension of time. Public notice of the request for an extension of time was issued on February 14, 2003 and no protests were received.
5. The SWRCB has determined that the petition for an extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
7. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. A condition should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.
8. Hitherto, the progress reports submitted by the permittee have failed to include measurements on the amount of water diverted and used under this permit. A condition should be placed in the permit requiring the permittee to establish a water-use monitoring and reporting program.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 20459 IS AMENDED TO READ AS FOLLOWS:

1. Condition 8 of the permit be amended to read:

Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2004.

(0000009)

2. Permit 20459 is amended to include the following Endangered Species condition:

This permit does not authorize any act, which results in the taking of a threatened or endangered species, or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

3. Permit 20459 is amended to include the following archeological condition:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0000215)

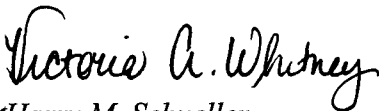
4. Permit 20459 is amended to include the following water-use monitoring and reporting condition:

No water shall be diverted under this permit until the permittee installs and maintains device(s) acceptable to the Division, that are capable of measuring the instantaneous rate(s) of diversion (where applicable) and the cumulative amounts of direct diversion and/or storage, under this permit. Permittee shall maintain for each month of the year, a record of the actual days of diversion, rate(s) of diversion, cumulative amount diverted, the purpose of use and the amount of water beneficially applied under this permit. Such monitoring information shall be included in the annual Progress Report by Permittee.

(0100900)

5. All other conditions of Permit 20459 are still applicable.

STATE WATER RESOURCES CONTROL BOARD


for *Harry M. Schueller*
Chief Deputy Director

Dated: DEC - 9 2003

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20459

Application 29405 of Sonoma-Lodi Joint Venture

c/o James Ledbetter, 508 West Lockeford Street, Lodi, CA 95240

filed on January 30, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:	Tributary to:
(1) Unnamed Stream	Russian River thence
	Pacific Ocean
(2&3&4) Russian River Underflow	Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Town-ship	Range	Base and Meridian
(1) PRESTON RESERVOIR NORTH 850 FEET AND WEST 1,750 FEET FROM SOUTHEAST CORNER OF PROJECTED SECTION 3	SW ₄ OF SE ₄	3	8N	9W	MD
(2) NORTH 3,400 FEET AND WEST 500 FEET FROM SOUTHEAST CORNER OF PROJECTED SECTION 9	SE ₄ OF NE ₄	9	8N	9W	MD
(3) NORTH 3,200 FEET AND WEST 600 FEET FROM SOUTHEAST CORNER OF PROJECTED SECTION 9	SE ₄ OF NE ₄	9	8N	9W	MD
(4) NORTH 3,000 FEET AND WEST 700 FEET FROM SOUTHEAST CORNER OF PROJECTED SECTION 9	SE ₄ OF NE ₄	9	8N	9W	MD

*Projected

County of Sonoma

3. Purpose of use:	4. Place of use:	Section *	Town-ship	Range	Base and Meridian	Acre
FROST PROTECTION	SE ₄ OF SE ₄	3	8N	9W	MD	28
IRRIGATION	SW ₄ OF SE ₄	3	8N	9W	MD	12
	SE ₄ OF NE ₄	10	8N	9W	MD	3
	NE ₄ OF NW ₄	10	8N	9W	MD	6
	NW ₄ OF NE ₄	10	8N	9W	MD	20
	NE ₄ OF NE ₄	10	8N	9W	MD	37
	SE ₄ OF NW ₄	10	8N	9W	MD	7
	SW ₄ OF NE ₄	10	8N	9W	MD	28
					TOTAL	141

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) by direct diversion: 1.75 cubic feet per second from May 1 to August 15 of each year for irrigation purposes, and (b) by storage: 88 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year for frost protection and irrigation purposes. The total amount of water to be taken from the source for all uses shall not exceed 148 acre-feet per water year of October 1 to September 30. (0000005)
6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)
7. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
8. Complete application of the water to the authorized use shall be made by December 31, 1994. (0000009)
9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

14. The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed.

(0000027)

15. Permittee, when required by the State Water Resources Control Board, shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Permittee shall submit plans and specifications of the outlet pipe or alternative facility to the Chief of the Division of Water Rights for approval within six months of the date upon which the Board issues notice that an outlet is required. Permittee shall furnish evidence which substantiates that the outlet pipe or alternative facility has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050044)

16. The total quantity of water collected to storage under this permit, License 12413 (Application 27149) and License 8811 (Application 22608) shall not exceed 88 acre-feet per year.

(0000114)

asgd to Ledbetter Farms, Inc. on 1/25/99;

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JULY 25 1990

STATE WATER RESOURCES CONTROL BOARD

Roger P. Hume
for Chief, Division of Water Rights